

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JEROLD S. SOLOVY

Plaintiff,

vs.

FEDEX GROUND PACKAGE
SYSTEM INC., a Delaware Corporation
FEDERAL EXPRESS CORPORATION,
a Delaware Corporation
FEDEX CUSTOM CRITICAL, INC.,
A Delaware Corporation
FEDEX KINKO'S OFFICE AND
PRINT SERVICES, INC.,
a Delaware Corporation
FEDEX CORP.,
a Delaware Corporation
FEDEX CORPORATE SERVICES,
INC, a Delaware Corporation

Defendant.

No. 07 CV 6721

JUDGE VIRGINIA M. KENDALL

MAG. JUDGE MARTIN C. ASHMAN

JOINT INITIAL STATUS REPORT

Plaintiff, JEROLD S. SOLOVY, through his attorneys, CLIFFORD LAW OFFICES, P.C., and Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., a Delaware Corporation, FEDERAL EXPRESS CORPORATION, a Delaware Corporation, FEDEX CUSTOM CRITICAL, INC., a Delaware Corporation, FEDEX KINKO'S OFFICE AND PRINT SERVICES, INC., a Delaware Corporation, FEDEX CORP., a Delaware Corporation, and FEDEX CORPORATE SERVICES, INC., a Delaware Corporation, (herein after collectively referred to as "the FEDEX Defendants") through their attorneys, O' HAGAN SPENCER LLC, submit the following Joint Status Report in this case:

I. The attorneys of record for each party including the attorney(s) expected to try the case

For Plaintiff, Jerold S. Solovy, the attorneys of record are:

Robert A. Clifford, Esq.
Clifford Law Offices, P.C.
120 North LaSalle Street
Suite 3100
Chicago, Illinois 60602
(312)899-9090

and

Brian S. Shallcross, Esq.
Clifford Law Offices, P.C.
120 North LaSalle Street
Suite 3100
Chicago, Illinois 60602
(312)899-9090

Mr. Clifford is lead counsel for Plaintiff and is expected to try the case.

For the FedEx Defendants, the attorneys of record are:

Patrick J. Keating
O'Hagan Spencer LLC
55 West Wacker Drive
Suite 1400
Chicago, Illinois 60601
(312)422-6135

and

Edward C. Eberspacher
O'Hagan Spencer LLC
55 West Wacker Drive
Suite 1400
Chicago, Illinois 60601
(312)422-6136

and

Thomas W. Murrey, Jr.
3620 Hacks Cross Road
Building B, Third Floor
Memphis, Tennessee 38125

Mr. Keating is lead counsel for Defendants and is expected to try the case.

II. The basis for federal jurisdiction

The parties are in dispute regarding federal jurisdiction. Defendants claim that this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1337, 49 U.S.C. § 14706 (Carmack Amendment to the Interstate Commerce Act), 28 U.S.C. § 1441(b) and the federal common law applicable to interstate air cargo claims. Plaintiff denies that federal jurisdiction exists in this case. Plaintiff's Motion for Remand is currently pending before the Court.

III. The nature of the claims asserted in the complaint and any expected counterclaim

Plaintiff, Jerold S. Solovy, filed a nine count complaint against the FedEx Defendants, in the Circuit Court of Cook County, Illinois on October 24, 2007. The FedEx Defendants filed a notice of removal based on federal question jurisdiction on November 29, 2007. Plaintiff's complaint includes counts alleging conversion, fraudulent misrepresentation, negligent misrepresentation, negligent hiring, negligent supervision, negligent retention, breach of bailment agreement, and mischance. Plaintiff claims that Defendants' agent wrongfully converted plaintiff's personal property instead of shipping it from Florida to Illinois as he had intended. Defendants deny any liability to Plaintiff and, in the alternative, assert that their liability, if any, is limited to \$100.00 by the contract of carriage.

IV. The name of any party not yet served and the circumstances regarding non-service

All parties have been served.

V. The principal legal issues

Whether federal common law and/or the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 13506(a)(8)(B) is applicable to Plaintiff's claims.

Whether federal common law and/or the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 13506(a)(8)(B) displaces Plaintiff's common law claims.

Whether under federal common law and/or the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 13506(a)(8)(B), the courier who allegedly accepted the subject package had authority to do so if she disclaimed authority to accept the subject package.

Whether a principal-agency relationship existed between any of the Defendants and the driver at the time she allegedly accepted Plaintiff's package and at the time she allegedly converted said package.

VI. The principal factual issues

Plaintiff contends that liability and the nature and extent of the plaintiffs' damages will be at issue.

Defendants have not yet identified any fact issues in the case.

VII. Whether a jury trial is expected by either party

A jury trial is expected by both parties.

VIII. A short description of any discovery undertaken to date and any anticipated in the future

Due to the plaintiff's pending motion to remand the case back to the Circuit Court of Cook County, no party has yet made disclosures pursuant to Federal Rule of Civil Procedure 26(a).

IX. The earliest date the parties will be ready for trial and the length of the trial

The parties anticipate being ready for trial by September 2008. The trial is expected to last 2 to 4 days.

X. Whether the parties unanimously consent to proceed before a Magistrate Judge

The parties have not yet reached an agreement for assignment of this case to the Magistrate Judge.

XI. The status of any settlement discussions and whether the parties request a settlement conference

Pre-suit, Defendants offered \$100.00 to Plaintiff. Plaintiff rejected Defendants' offer and no further settlement discussions have taken place. The parties may request a settlement conference prior to trial.

DATED: January 7, 2008

Respectfully Submitted,

/s/ Brian S. Shallcross

Brian S. Shallcross
Clifford Law Offices, P.C.
120 N. LaSalle Street, Suite 3100
Chicago, Illinois 60602
Phone: 312-899-9090
Fax: 312-251-11630

/s/ Edward C. Eberspacher

Edward C. Eberspacher
O'Hagan Spencer LLC
One East Wacker Drive, Suite 3400
Chicago, Illinois 60601
Phone: (312)-422-6100
Fax: (312)-422-6110

CERTIFICATE OF SERVICE

This is to certify that on this 7th day of January 2008, I electronically filed our **Joint Initial Status Report** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Brian S. Shallcross
Clifford Law Offices, P.C.
120 N. LaSalle Street, Suite 3100
Chicago, Illinois 60602
Phone: 312-899-9090
Fax: 312-251-11630
bshallcross@cliffordlaw.com

/s/ Edward C. Eberspacher
Edward C. Eberspacher (ARDC No. 6286085)
O'Hagan Spencer, LLC
One East Wacker Drive, Suite 3400
Chicago, Illinois 60601
Telephone: (312) 422-6100
Facsimile: (312) 422-6110
E-mail: teberspacher@ohaganspencer.com